

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES ARTHUR,

Plaintiff,

v.

WESTCHESTER SURPLUS LINES
INSURANCE COMPANY,

Defendant.

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Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Westchester Surplus Lines Insurance Company (“Westchester”) files this Notice of Removal, and would respectfully show the Court the following:

Introduction

1. On August 22, 2019 the Plaintiff, James Arthur (“Plaintiff”), filed a lawsuit against Westchester in Cause No. 2019-58860; *James Arthur v. Westchester Surplus Lines Insurance Company*; In the 215th Judicial District Court of Harris County, Texas. A certified copy of the Original Petition is attached as Exhibit 1. Service of process was made upon the Commissioner of Insurance on October 2, 2019.

2. Westchester timely filed this Notice of Removal within the 30-day deadline required by 28 U.S.C. §1446(b).

Bases for Removal

3. Removal is proper based on diversity of citizenship. 28 U.S.C. 1332(a). In particular:

a. Plaintiff is an individual residing in Harris County, Texas.

b. Westchester is a Georgia corporation with its principal place of business in Philadelphia, Pennsylvania. Therefore, Westchester is a citizen of Georgia and Pennsylvania.

4. Plaintiff alleges in his Original Petition that he seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00. Accordingly, the amount in controversy is in excess of the sum of \$75,000.00. All requirements are met for removal under 28 U.S.C. §§ 1332 and 1441(b).

5. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace Harris County, Texas, the place where the removed action has been pending.

6. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Clerk of the 215th Judicial District Court of Harris County, Texas and all parties.

7. All pleadings, process, orders, and other filings in the state court action¹ are attached to this notice as required by 28 U.S.C. §1446(a). Those filings consist of Exhibit 1 as described above, and the following additional filings, as required by Local Rule 81:

Exhibit 2: Defendant Westchester Surplus Lines Insurance Company's Original Answer;

Exhibit 3: The docket sheet;

Exhibit 4: An index of matters being filed; and

Exhibit 5: List of all counsel of record and parties represented

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8. Pursuant to Federal Rule of Civil Procedure 38, Westchester demands a trial by jury.

¹ Service of Process has not been returned as of the filing of this Notice of Removal.

Prayer

Defendant, Westchester Surplus Lines Insurance Company, respectfully gives notice that this state court action has been removed and placed on this Court's docket for further proceedings. Defendant further requests any additional relief to which it is justly entitled.

Respectfully submitted,

COZEN O'CONNOR

s/ Joseph A. Ziemianski

Joseph A. Ziemianski

Attorney-in-Charge

Texas State Bar No. 00797732

Southern District of Texas Bar No. 25915

Karl A. Schulz

Texas State Bar No. 24057339

Southern District of Texas Bar No. 884614

1221 McKinney, Suite 2900

Houston, Texas 77010

Telephone: (832) 214.3900

Telecopy: (832) 214.3905

E-mail: jziemianski@cozen.com

E-mail: kschulz@cozen.com

OF COUNSEL:

COZEN O'CONNOR

1221 McKinney, Suite 2900

Houston, Texas 77010

Telephone: (832) 214.3900

Telecopy: (832) 214.3905

ATTORNEYS FOR DEFENDANT
WESTCHESTER SURPLUS LINES
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing instrument was served via the Court's electronic filing system on October 28, 2019 to:

Mr. James O. Okafor
1001 Fondren, Suite 260
Houston, Texas 77096
Counsel for Plaintiff, James Arthur

s/ Joseph A. Ziemianski
Joseph A. Ziemianski